

CITY OF BREMERTON

NOTICE OF ACTION TAKEN

APPELLANT: WILLIAM J. SESKO
3536 Arsenal Way
Bremerton, WA 98312

APPEAL: **CEASE & DESIST ORDER** issued by the Director of Community Development and upheld by the Planning Commission requiring discontinuation of the illegal land use "JUNKYARD", which is not allowed in the BP zone.

LOCATION: 1701 Pennsylvania Avenue - shoreline parcel at the north end of Pennsylvania Avenue, west side of the street, abutting the Port Washington Narrows in West Bremerton.

FILE #: Appeal-07-95

<p>The City of Bremerton has taken recent action on this matter, as described in this NOTICE. Please direct any questions or requests for additional information to the Bremerton Planning Division, 286 Fourth Street, or phone (206) 478-5275.</p>
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DATE OF ACTION: June 28, 1995

ACTION TAKEN BY: Bremerton City Council

DEADLINE FOR APPEAL TO SUPERIOR COURT: JULY 28, 1995

ACTION TAKEN: **UPHELD THE PLANNING COMMISSION'S
DECISION TO VALIDATE THE CEASE &
DESIST ORDER**

AGENDA BILL
BREMERTON CITY COUNCIL

I. SUBJECT: Appeal Hearing

Appeal of Planning Commission decision to uphold the Planning Director's decision to issue a CEASE and DESIST ORDER for an illegal "JUNKYARD" land use in the "Business Park (BP)" zone.

APPELLANT: WILLIAM SESKO

LOCATION: 1701 PENNSYLVANIA AVENUE

2. CLEARANCES:

Director of DCD: Donald L. Pratt

City Attorney: _____

Ops. Cmte: Marie Robinson

FOR AGENDA OF: JUNE 28, 1995

ORIGINATING DEPT.: DCD - BLUES

ORIGINATOR: Shane Jensen, Planner

DATE SUBMITTED: JUNE 20, 1995

3. EXHIBIT with attachments:

PC FINDINGS & CONCLUSIONS

"A": Appeal of PC decision application

"B": Cease and Desist Order

"C": "Junkyard" definition from Zoning Ordinance

"D": Current Zoning Map

"E": Land Use Table # 10 from Zoning Ordinance

"F": PC Minutes of 4/18/95

ENDORSEMENT ☒ INFORMATION ☐ APPROVED BY COUNCIL PRESIDENT FOR SUBMITTAL: _____

MAYOR Lyn A. Holt

COUNCIL PRESIDENT Shirley J. Menes

4. SUMMARY STATEMENT AND REQUIREMENT FOR COUNCIL ACTION:

The CEASE and DESIST ORDER was issued in response to apparent illegal use of the subject property as a junkyard. The Order was appealed and upheld by the Planning Commission. The City Council is the hearing body for appeals of Planning Commission decisions.

When hearing an appeal, the City Council may take any of the following actions:

1. Uphold the Planning Commission's decision, validating the CEASE and DESIST ORDER.
2. Overturn the decision, invalidating the Order.
3. Modify the decision by adding or deleting conditions.
4. Remand the decision back to the Planning Commission for further review of circumstances or impacts identified by the City Council. (The City Council should include specific issues to be considered.)

8. RECOMMENDATION:

Requested Motion: I move to UPHOLD the Planning Commission's decision to uphold the CEASE and DESIST ORDER and hereby recognize the property at 1701 Pennsylvania Avenue as being used as a "JUNKYARD", which is an illegal land use in the "Business Park (BP)" zone.

9. RESPONSIBLE OFFICIAL: Donald L. Pratt

ENFORCEMENT OFFICIAL: David Nelson

10. NOTICE OF ACTION

PULLED ___ TABLED ___ APPROVED ☒ DISAPPROV ___

COUNCIL DIRECTIVE:

Upheld Planning Decision

cc AB/attached to Shane

11. AGENDA BILL N

6/20/95
CC: A. Bill
CLUPHED
ORDER

12. CLEARANCE COMMENTS:

13. IMPACT OF NON-PASSAGE:

Planning Commission's decision would be overturned, invalidating the CEASE and DESIST ORDER.

14. IMPACT ON STAFFING, BUDGETS, FACILITIES, EQUIPMENT OR OTHER RESOURCES:

Possible additional staff time for further review and analysis.

15. RESEARCH SOURCES:

CITY of BREMERTON

**FINDINGS OF FACT and CONCLUSIONS
of the
BREMERTON PLANNING COMMISSION**

PUBLIC HEARING of APRIL 18, 1995:

ORIGINATOR: Shane Jensen, Land Use Planner
COMMISSION CHAIR: Richard Goetze

1. SUBJECT:

Appeal: CEASE and DESIST ORDER issued to stop illegal land use.

Appellant: WILLIAM J. SESKO
3536 Arsenal Way
Bremerton, WA 98312

Enforcement Action Taken: CEASE and DESIST ORDER to discontinue the illegal land use defined as "JUNKYARD". This land use is not allowed within the "Business Park (BP)" zone.

Location: 1701 Pennsylvania Avenue – shoreline parcel at the north end of Pennsylvania Avenue, west side of the street, abutting the Port Washington Narrows in West Bremerton.

2. ATTACHMENTS:

"A": Appeal of administrative decision Application
"B": CEASE and DESIST ORDER
"C": "JUNKYARD" definition from Zoning Ordinance
"D": Current Zoning Map
"E": "Land Use Table #10" from Zoning Ordinance

3. FINDINGS:

The Director of Community Development issued the CEASE and DESIST ORDER to discontinue the illegal "JUNKYARD" use on the subject lot in the BP zone. The Order seeks a discontinuation of the illegal use. The Order describes the use of the property and items necessary for removal, to be in compliance with the required cessation of the illegal use.

The Cease and Desist Order was appealed for these reasons (see *Appeal Application [Attachment "A"]*):

- Appellant protests the Cease and Desist Order dated February 2, 1995.
- Nonconforming outdoor storage was legally established and is a minor part of manufacturing for [Sesko's] research and development of products.

When hearing an appeal, the Planning Commission may take any of the following actions:

1. Uphold the Directors decision, validating the CEASE and DESIST ORDER.
2. Overturn the decision, invalidating the Order.
3. Modify the decision by adding or deleting conditions.
4. Remand the decision back to the Director for further review of circumstances or impacts identified by the Planning Commission. (The Planning Commission should include specific issues to be considered.)

4. CONCLUSIONS:

Due to the condition of the property, and the various vehicles, materials, and objects contained therein, the Commission concludes that the CEASE and DESIST ORDER was warranted to remedy the illegal use, and the decision to issue the Order was correct. The Commission upholds the Director's decision, validating the CEASE and DESIST ORDER.

5. ACTION TAKEN ON APPEAL:

The Bremerton Planning Commission, after considering oral and written testimony and other evidence submitted, **UPHOLDS** the decision of the Director of Community Development to issue the CEASE and DESIST ORDER, and recognizes the subject property at **1701 Pennsylvania Avenue** as being used as a "JUNKYARD", which is illegal in the "Business Park (BP)" zone.

RICHARD GOETZE
Chairman, Bremerton Planning Commission

Attachment "A"

CITY OF BREMERTON
APPEAL OF PLANNING ^{COMMISSION} DECISION

APPEAL OF: WILLIAM J. SESKO Appellant
(Your Name)

3536 ARSENAL WAY, 98312
(Your Mailing Address)

377 - 0697
(Telephone Number)

ITEM BEING APPEALED: CEASE & DESIST ORDER FOR
1701 PENNSYLVANIA AVE.

Please provide a brief statement regarding your legal interest in the action being appealed. Use additional pages if necessary.

NATACHA & I OWN THE PROPERTY

Please provide a brief statement of the specific order or action protested, together with material facts claimed to support your contentions. Use additional pages if necessary.

THE PROPERTY HAS ALWAYS BEEN USED FOR
STORAGE SINCE IT WAS CHANGED TO ZP FROM
INDUSTRIAL. IN THE PAST IT WAS A DUMP
SITE OWNED BY THE CITY.

Please provide a brief statement of the relief sought and the reasons why the Administrative Decision action should be reversed, modified or otherwise set aside. Use additional pages if necessary.

DATE: MAY 2, 95
\$59.00

William J. Sesko
Appellant's Signature

FEE: _____ (Due with Letter of Appeal)

Appeals will be scheduled to be heard before the Bremerton Planning Commission as soon as possible, allowing for adequate preparation and notice. You will receive written notification of the Commission hearing date mailed to your address given above. The Planning Commission decision is the final legislative decision.

CEASE AND DESIST ORDER

Pursuant to BMC 21.02.960 (C) "Cease and Desist Order" WILLIAM SESKO , owner of the property located at NORTH END OF PENNSYLVANIA AVENUE AT PORT WASHINGTON NARROWS (Assessor's Tax Parcel #: 3741-000-022-0101) Bremerton, WA, is hereby ordered to immediately discontinue the illegal use defined herein.

The following conditions have been defined as violations of the Bremerton Municipal Code by the Director of Community Development:

BMC 21.02.340 "Interpretation of Tables" [Land Use Table #: 10: "JUNKYARD" land use is not allowed within the "BUSINESS PARK (BP)" zone.

BMC 21.02.960 "Violation of the Zoning Code" [Cease and Desist Order] (C-2) states:

"An order shall be obeyed immediately, notwithstanding the filing of an appeal. An order is final if not appealed to the Planning Commission within fourteen (14) calendar days from the date of posting, or as otherwise stated within the order."

DATE ORDER WAS POSTED:..... FEBRUARY 2, 1995

APPEAL MUST BE FILED OR
COMPLIANCE WITH ORDER ACHIEVED BY:..... FEBRUARY 16, 1995

BMC 21.02.960 "Violation of the Zoning Code" [Cease and Desist Order] (C-3) states:

"Any property subject to a Cease and Desist Order shall be posted with a Vacation Notice [Notice to Vacate] directing vacation of the entire premises within ten (10) working days."

Failure to satisfy the conditions of this order may cause the owner/occupant/lessor to be guilty of a gross misdemeanor as per BMC 21.02.960 "Violation of the Zoning Code" [Cease and Desist Order] (C-3).

ACCOMPLISH THE FOLLOWING ACTION: CEASE & DESIST USE OF THE PROPERTY AS "JUNKYARD".


DONALD L. PRATT
Director of Community Development

2/2/95
Date

DO NOT REMOVE OR DEFACE THIS NOTICE

Attachment "C"

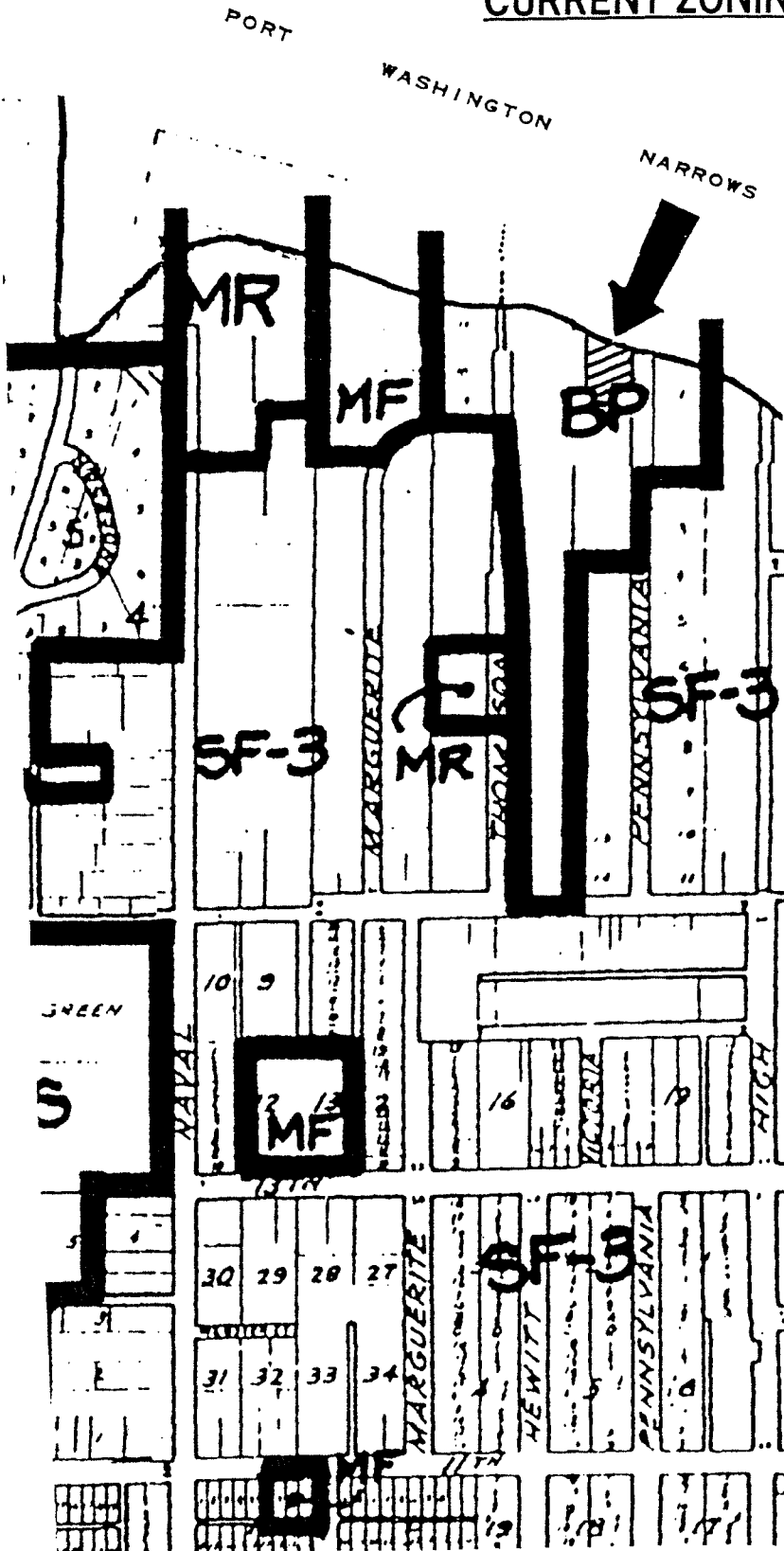
"JUNKYARD" definition from Zoning Ordinance

[Bremerton Zoning Ordinance Chapter III "Definitions"]

"JUNKYARD": A place where discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or otherwise handled. This definition includes automobile wrecking yards; house wrecking yards; and storage of structural steel materials and equipment. This definition does not include used or salvaged machinery in operable condition; nor the processing of used, discarded or salvaged materials as a minor part of manufacturing operations.

Attachment "D"

CURRENT ZONING MAP



ZONING DISTRICTS ON THIS MAP

- SF-2 Single-family Residential
- SF-3 Single-family Residential
- DR Duplex Residential
- MF Multi-family Residential
- MR Mixed Residential
- CBR Central Bremerton Residential
- NB Neighborhood Business
- GB General Business
- BP Business Park
- PS Parks & Schools

SEE TEXT OF ZONING ORDINANCE FOR
SPECIFIC DEVELOPMENT REGULATIONS.

USES ALLOWED BY ZONE	ZONING DISTRICTS																
	SF-1	SF-2	SF-3	CBR	DR	HD	MF	MR	PO	NB	GB	SC	BC	MX	BP	IP	IG
Newspaper Publishing, Printing, Commercial Printing											A		A		SUP	A	A
Printing Trade Services											A		A		SUP	A	A
Junk Yard																	SUP
Electrical Machinery & Equip. Mfg											SUP				SUP	A	A
Other Fabricated Metal Products Mfg.											SUP					A	A
Professional, Scientific Control Instrument Mfg.											SUP				SUP	A	A
Machine Shop											SUP						A
Drugs, Chemicals and Allied Products - Wholesale											SUP					A	A
Dry Goods & Apparel - wholesale											SUP				A	A	A
Groceries - wholesale											SUP				SUP	A	A
Electrical Goods - wholesale											SUP				SUP	A	A
Hardware, Plumbing and Heating - wholesale											SUP				SUP	A	A
Machinery, Equipment and Supplies - wholesale											SUP				SUP	A	A
Scrap/Waste Materials wholesale																	SUP
Warehousing - general											SUP				SUP	A	A
Mini-warehousing											SUP		SUP		A	A	A
Food Products Mfg.											SUP				SUP	A	A

A = Allowed Principal Use

AC = Allowed Accessory Use

SUP = Special Use Permit Required

PUD = Allowed as Planned Unit Development

PLANNING COMMISSION MINUTES

April 18, 1995

MEMBERS PRESENT: Chair: Richard Goetze, Vice-Chair Wayne Olsen; Commissioners: Barbara Gary Boyd, John Hancock, Debra Jackson, Laurence Stone.

STAFF PRESENT: Don Pratt, DCD Director
Shane Jensen, Land Use Planner

Item VII - 2. William Sesko's Appeal for a Cease and Desist Order issued to stop an illegal junk yard land use.

City staff member Shane Jensen gave the staff report attached including a video type off the condition of the property. Marked exhibit and photo marked Exhibits B, C, D, E, F, G, H, I.

Chairman Goetze asked for written testimony; City Staff member Jensen read a written testimony for:

1. Rhoda Gage, 1558 Pennsylvania Ave., Bremerton.

Mr. Jensen also provided notes from a telephone conversation with Bill Radford, 1701 Pennsylvania, Bremerton. Mr. Radford supported the City's enforcement action.

0522 The appellant, Bill Sesko of Arsenal Way, spoke on his behalf. He explained the history of the property as a coal gassification plant and the debris and possible contamination in the soil on the site. When I find out what the nature of the contamination is, I will file for permits. I will install a view-obscuring fence and remove some of the vehicles. The property was used for storage before the Business Park zoning and is a legal nonconformity.

FINAL COPY
APPROVED MAY 16, 1995

Planning Commissioner Goetze: What is your timetable for removing illegal items?

Mr. Sesko: I'm not sure about the beach area; I will need to determine contamination and negotiate with the City and State.

Planning Commissioner Boyd: What about all the small stuff that is stored on the site?

Mr. Sesko: That site used to be a City dump. As I dig in the soil, garbage comes out. I am trying to haul the garbage off. I've been working at it for a year.

Planning Commissioner Stone: Your appeal is for Arsenal Way and Pennsylvania - are we considering both now?

City staff Jensen: No, only the Pennsylvania Avenue site junkyard.

Planning Commissioner Stone: Do I understand that you believe the junkyard determination does not apply to you?

Mr. Sesko: Some of the items should not be determined as junk. The rest of the items are involved in the contamination issue.

Planning Commissioner Stone: What is your intention with the building?

Mr. Sesko: The City did not give me notice that any of the items are illegal. If they will tell me what the City disagrees with, I will prove nonconformity or remove it.

Chairman Goetze: I close the discussion to the Planning Commission.

Planning Commissioner Robinson: Junk is junk. Most of the stored material there is junk. I move the adoption of the model motion.

Seconded by Mr. Stone.

Question called by Ms. Boyd.

Unanimous vote to deny the appeal.
